

7 APR 1976

MEMORANDUM FOR THE RECORD

SUBJECT : Reconsideration by Overpayment Review Committee
of Request for Waiver of Claim for Overpayment
of Salary - Mr. [REDACTED] STATINTL

REFERENCE: Memo for the Record fm C/ORC dtd 31 Mar 76, Subj: STATINTL
Appeal for Reconsideration of Denial of Request
for Waiver of Claim for Overpayment - [REDACTED] STATINTL

1. The regular meeting of the Overpayment Review Committee
convened at 1330 on 2 April 1976. Members of the Committee in
attendance were the undersigned as Chairman; [REDACTED] STATINTL

[REDACTED] STATINTL
and [REDACTED] was pursuant to the request of the Director of
Finance that the Committee receive Mr. [REDACTED] oral testimony
to determine whether new evidence might be present which would
warrant reconsideration of Mr. [REDACTED] case by the Committee
and possible reversal of the Committee's previous recommenda- STATINTL
tion to the DDCI for denial of waiver of claim.

2. The undersigned introduced Mr. [REDACTED] to the Committee STATINTL
and advised the Committee of the purpose of Mr. [REDACTED] pres-
ence. The undersigned instructed the Committee to listen to
Mr. [REDACTED] presentation objectively, to ask such questions STATINTL
of him as would clarify or expand his testimony, and to vote
by show of hands whether or not they believed new evidence exis-
ted which might lead to reversal of their previous recommendation
to General Walters. The undersigned excluded himself from the
vote as, having heard Mr. [REDACTED] arguments twice before, he STATINTL
had formed a prejudgment.

3. Mr. [REDACTED] then presented his testimony, following the
same rationale and arguments described in reference. Questions STATINTL
directed to Mr. [REDACTED] after his testimony by the members of

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the Committee were mainly posed to expand the Committee's comprehension of Mr. [REDACTED] understanding of the compensation provision of his contract. During this questioning, Mr. [REDACTED] admitted that he had understood that the \$11.63 per hour contractual compensation was subject to reduction, but he maintained his contention that his understanding was that adjustment would be on the basis of the excess of his total annual earnings over \$7,865 per year. When asked the source of this understanding, Mr. [REDACTED] cited an attorney of the Office of General Counsel and two co-workers in the Office of Communications. Further questions developed the context of Mr. [REDACTED] inquiry of OGC as being in reference to the compensation provision in contracts of independent contractors. Mr. [REDACTED] noted that the functions performed by Mr. [REDACTED] were those of an employee and not those of an independent contractor.

4. After all questions to Mr. [REDACTED] had been answered, the undersigned called for a show of hands indicating belief that Mr. [REDACTED] case should be reexamined in view of new evidence. There was no showing. The undersigned then asked for a show of hands indicating belief that the Committee's recommendation for denial should stand. The vote was unanimous for this position. The undersigned expressed regret to Mr. [REDACTED] and advised him that he still had the right of appeal to the DDCI through the Office of the Inspector General and therefore had not actually lost ground in his appeal.

5. Mr. [REDACTED] of the OGC asked permission of the undersigned to explain to Mr. [REDACTED] why the Committee had voted as it did. He referred to a determination by the Comptroller General which defined the "reasonable man" concept. As related to Mr. [REDACTED] case, Mr. [REDACTED] explained that the contract clearly indicated that the \$11.63 hourly contractual wage was to be reduced, and was unclear only as to the amount and period of the reduction. Mr. [REDACTED] pointed out that, in response to these legitimate questions, the "reasonable man" would have sought expert advice rather than to develop a personal rationale to explain why the \$11.63 hourly rate was not reduced as specified. Mr. [REDACTED] noted that the language used in the contract was clear in a legal sense.

6. Mr. [REDACTED] left the meeting without comment, but obviously in a disappointed state of mind. The Committee

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invited [REDACTED] to stay on to observe Committee practices with regard to other cases. Mr. [REDACTED] declined, but did remain to discuss with Mr. [REDACTED], as Chief, Contract Personnel Division, the possibility of rewording the language of the compensation provision of contracts for reemployed annuitants to be more clear to the common man. Mr. [REDACTED] agreed to do so in conjunction with [REDACTED].

[REDACTED]

Chairman
Overpayment Review Committee